

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

KERRY CONNELLY,

Plaintiff,

v.

STARBUCKS CORPORATION,

Defendant.

Case No. 1:21-cv-00746-ADA-SAB

ORDER ENTERING STIPULATED  
PROTECTIVE ORDER

(ECF No. 21)

**STIPULATED PROTECTIVE ORDER**

1. **PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, Plaintiff Kerry Connelly (“Plaintiff”) and Defendant Starbucks Corporation (“Defendant” or “Starbucks”) (collectively, the “Parties”) hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the

1 protection it affords from public disclosure and use extends only to the limited information or  
2 items that are entitled to confidential treatment under the applicable legal principles. The Parties  
3 further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order  
4 does not entitle them to file confidential information under seal; Civil Local Rule 141 sets forth  
5 the procedures that must be followed and the standards that will be applied when a party seeks  
6 permission from the court to file material under seal.

7 **2. DEFINITIONS**

8 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
9 information or items under this Order.

10 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
11 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule  
12 of Civil Procedure 26(c).

13 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well  
14 as their support staff).

15 2.4 Designating Party: a Party or Non-Party that designates information or items that  
16 it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

17 2.5 Disclosure or Discovery Material: all items or information, regardless of the  
18 medium or manner in which it is generated, stored, or maintained (including, among other things,  
19 testimony, transcripts, and tangible things), that are produced or generated in disclosures or  
20 responses to discovery in this matter.

21 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to  
22 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a  
23 consultant in this action.

24 2.7 House Counsel: attorneys who are employees of a party to this action. House  
25 Counsel does not include Outside Counsel of Record or any other outside counsel.

26 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal  
27 entity not named as a Party to this action.

28 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this

1 action but are retained to represent or advise a party to this action and have appeared in this action  
2 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

3 2.10 Party: any party to this action, including all of its officers, directors, employees,  
4 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

5 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
6 Material in this action.

7 2.12 Professional Vendors: persons or entities that provide litigation support services  
8 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
9 organizing, storing, or retrieving data in any form or medium) and their employees and  
10 subcontractors.

11 2.13 Protected Material: any Disclosure or Discovery Material that is designated as  
12 “CONFIDENTIAL.”

13 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
14 Producing Party.

15 3. SCOPE

16 The protections conferred by this Stipulation and Order cover not only Protected Material  
17 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)  
18 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
19 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.  
20 However, the protections conferred by this Stipulation and Order do not cover the following  
21 information: (a) any information that is in the public domain at the time of disclosure to a  
22 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as  
23 a result of publication not involving a violation of this Order, including becoming part of the  
24 public record through trial or otherwise; and (b) any information known to the Receiving Party  
25 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who  
26 obtained the information lawfully and under no obligation of confidentiality to the Designating  
27 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

28 4. DURATION

1 Even after final disposition of this litigation, the confidentiality obligations imposed by  
2 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court  
3 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all  
4 claims and defenses in this action, with or without prejudice; and (2) final judgment herein after  
5 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
6 including the time limits for filing any motions or applications for extension of time pursuant to  
7 applicable law.

8 **5. DESIGNATING PROTECTED MATERIAL**

9 **5.1 Exercise of Restraint and Care in Designating Material for Protection.** Each Party  
10 or Non-Party that designates information or items for protection under this Order must take care  
11 to limit any such designation to specific material that qualifies under the appropriate standards.  
12 The Designating Party must designate for protection only those parts of material, documents,  
13 items, or oral or written communications that qualify—so that other portions of the material,  
14 documents, items, or communications for which protection is not warranted are not swept  
15 unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
17 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
18 unnecessarily encumber or retard the case development process or to impose unnecessary  
19 expenses and burdens on other Parties) expose the Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it designated  
21 for protection do not qualify for protection, that Designating Party must promptly notify all other  
22 Parties that it is withdrawing the mistaken designation.

23 While the Parties must exercise restraint, a Designating Party has the right to designate as  
24 "Confidential" any material that the Designating Party in good faith believes to contain non-  
25 public information that is entitled to confidential treatment under applicable law, specifically  
26 including, but not limited to, any employee payroll data, employee personnel data and/or contact  
27 information, or Starbucks internal policies, practices or strategies.  
28

1           5.2    Manner and Timing of Designations. Except as otherwise provided in this Order  
2 (see, e.g., section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery  
3 Material that qualifies for protection under this Order must be clearly so designated before the  
4 material is disclosed or produced.

5           Designation in conformity with this Order requires:

6           (a) for information in documentary form (e.g., paper or electronic documents, but  
7 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing  
8 Party affix the legend “CONFIDENTIAL” to each page that contains protected material. If only a  
9 portion or portions of the material on a page qualifies for protection, the Producing Party also  
10 must clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
11 margins). A Party or Non-Party that makes original documents or materials available for  
12 inspection need not designate them for protection until after the inspecting Party has indicated  
13 which material it would like copied and produced. During the inspection and before the  
14 designation, all of the material made available for inspection shall be deemed  
15 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and  
16 produced, the Producing Party must determine which documents, or portions thereof, qualify for  
17 protection under this Order. Then, before producing the specified documents, the Producing  
18 Party must affix the “CONFIDENTIAL” legend to each page that contains Protected Material. If  
19 only a portion or portions of the material on a page qualifies for protection, the Producing Party  
20 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
21 margins).

22           (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
23 Designating Party identify within thirty days of the close of the deposition, hearing, or other  
24 proceeding, all protected testimony.

25           (c) for information produced in some form other than documentary and for any other  
26 tangible items, that the Producing Party affix in a prominent place on the exterior of the container  
27 or containers in which the information or item is stored the legend “CONFIDENTIAL.” If only a  
28

1 portion or portions of the information or item warrant protection, the Producing Party, to the  
2 extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
4 designate qualified information or items does not, standing alone, waive the Designating Party's  
5 right to secure protection under this Order for such material. Upon timely correction of a  
6 designation, the Receiving Party must make reasonable efforts to assure that the material is  
7 treated in accordance with the provisions of this Order.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
10 confidentiality at any time with the exception of Personal Contact Information, as explained  
11 below. Unless a prompt challenge to a Designating Party's confidentiality designation is  
12 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a  
13 significant disruption or delay of the litigation, a Party does not waive its right to challenge a  
14 confidentiality designation by electing not to mount a challenge promptly after the original  
15 designation is disclosed.

16 Any contact information of Starbucks current or former employees that Starbucks  
17 produces at any time during the course of, or in connection with this litigation ("Personal Contact  
18 Information"), shall be deemed Confidential, whether or not stamped or marked as confidential.  
19 The designation of Personal Contact Information as confidential shall not be subject to objections  
20 pursuant to Paragraph 6 (or its subparts) of this Order. Any Personal Contact Information shall be  
21 used by Plaintiffs and their counsel solely for the purpose of investigating, prosecuting, and/or  
22 settlement of this litigation.

23 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
24 process by providing written notice of each designation it is challenging and describing the basis  
25 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written  
26 notice must recite that the challenge to confidentiality is being made in accordance with this  
27 specific paragraph of the Protective Order. The Parties shall attempt to resolve each challenge in  
28 good faith and must begin the process by conferring directly (in voice to voice dialogue; other

1 forms of communication are not sufficient) within 14 days of the date of service of notice. In  
2 conferring, the Challenging Party must explain the basis for its belief that the confidentiality  
3 designation was not proper and must give the Designating Party an opportunity to review the  
4 designated material, to reconsider the circumstances, and, if no change in designation is offered,  
5 to explain the basis for the chosen designation. A Challenging Party may proceed to the next  
6 stage of the challenge process only if it has engaged in this meet and confer process first or  
7 establishes that the Designating Party is unwilling to participate in the meet and confer process in  
8 a timely manner.

9       6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
10 intervention, the Designating Party shall file and serve a motion to retain confidentiality within 21  
11 days of the initial notice of challenge or within 14 days of the Parties agreeing that the meet and  
12 confer process will not resolve their dispute, whichever is earlier. Each such motion must be  
13 accompanied by a competent declaration affirming that the movant has complied with the meet  
14 and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to  
15 make such a motion including the required declaration within 21 days (or 14 days, if applicable)  
16 shall automatically waive the confidentiality designation for each challenged designation. In  
17 addition, the Challenging Party may file a motion challenging a confidentiality designation at any  
18 time if there is good cause for doing so, including a challenge to the designation of a deposition  
19 transcript or portions thereof. Any motion brought pursuant to this provision must be  
20 accompanied by a competent declaration affirming that the movant has complied with the meet  
21 and confer requirements imposed by the preceding paragraph.

22       The burden of persuasion in any such challenge proceeding shall be on the Designating  
23 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose  
24 unnecessary expenses and burdens on other parties) may expose the Challenging Party to  
25 sanctions. Unless the Designating Party has waived the confidentiality designation by failing to  
26 file a motion to retain confidentiality as described above, all Parties shall continue to afford the  
27 material in question the level of protection to which it is entitled under the Producing Party's  
28 designation until the court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),



1 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed  
2 deposition testimony or exhibits to depositions that reveal Protected Material must be separately  
3 bound by the court reporter and may not be disclosed to anyone except as permitted under this  
4 Stipulated Protective Order.

5 (g) the author or recipient of a document containing the information or a custodian or  
6 other person who otherwise possessed or knew the information.

7 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
8 LITIGATION

9 If a Party is served with a subpoena or a court order issued in other litigation that compels  
10 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party  
11 must:

12 (a) Promptly notify in writing the Designating Party. Such notification shall include a  
13 copy of the subpoena or court order;

14 (b) Promptly notify in writing the party who caused the subpoena or order to issue in the  
15 other litigation that some or all of the material covered by the subpoena or order is subject to this  
16 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

17 (c) Cooperate with respect to all reasonable procedures sought to be pursued by the  
18 Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with the  
20 subpoena or court order shall not produce any information designated in this action as  
21 “CONFIDENTIAL” before a determination by the court from which the subpoena or order  
22 issued, unless the Party has obtained the Designating Party’s permission. The Designating Party  
23 shall bear the burden and expense of seeking protection in that court of its confidential material –  
24 and nothing in these provisions should be construed as authorizing or encouraging a Receiving  
25 Party in this action to disobey a lawful directive from another court.  
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9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

(1) Promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) Promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) Make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the

Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the Parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the Parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 141. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local

Rule 141 is denied by the court, then the Receiving Party may file the information in the public record pursuant to Civil Local Rule 141 unless otherwise instructed by the court.

13. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: January 23, 2023

**AKIN GUMP STRAUSS HAUER & FELD LLP**  
GREGORY W. KNOPP  
JONATHAN P. SLOWIK  
LAURA L. VAUGHN

By /s/ Gregory W. Knopp\*\*  
Gregory W. Knopp  
Attorneys for Defendant  
STARBUCKS CORPORATION

Dated: January 23, 2023

**DIVERSITY LAW GROUP, P.C.**  
SIMON L. YANG  
LARRY W. LEE

By /s/ Simon L. Yang  
SIMON L. YANG  
Attorneys for Plaintiff  
KERRY CONNELLY

\*\*Pursuant to L.R. 131(e), I attest that concurrence in the filing of this document has been  
obtained from each of the above other signatories.

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**COURT ORDER ENTERING STIPULATED PROTECTIVE ORDER**

Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED that:

1. The above stipulated protective order filed on January 23, 2023, (ECF No. 21), is ENTERED;
2. The provisions of the parties' stipulation and this protective order shall remain in effect until further order of the Court;
3. The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents which are to be filed under seal will require a written request which complies with Local Rule 141;
4. The party making a request to file documents under seal shall be required to show either good cause or compelling reasons to seal the documents, depending on the type of filing, Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 677–78 (9th Cir. 2009); Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1101 (9th Cir. 2016); and
5. If a party's request to file Protected Material under seal is denied by the Court, then the previously filed material shall be immediately accepted by the court and become information in the public record and the information will be deemed filed as of the date that the request to file the Protected Information under seal was made.

IT IS SO ORDERED.

Dated: **January 23, 2023**

  
UNITED STATES MAGISTRATE JUDGE